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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,534	10/12/2005	Frederic Plessis	0688-1001	1504
466 7590 05/19/2010 YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314				
EXAMINER EPSTEIN, BRIAN M				
ART UNIT 3628		PAPER NUMBER		
NOTIFICATION DATE 05/19/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary

Application No.

10/524,534

Applicant(s)

PLESSIS ET AL.

Examiner

BRIAN EPSTEIN

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 9, 2009 and January 13, 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20050214 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on October 19, 2009 and January 13, 2010 have been entered.

Status of the Application

2. Claims 14-27 were previously pending in this application and subject to a final office action mailed June 18, 2009. A notice of non compliant amendment was issued on December 29, 2009 due to a failure to include an accurate/complete record of an after final interview held on September 14, 2009. Claims 14-26 were amended and claim 27 was left as originally presented in the Request for Continued Examination filed October 9, 2009. Therefore claims 14-27 are currently pending and subject to the office action below. Examiner thanks applicant for filing an appropriate interview summary on January 13, 2010.

Response to Amendment

3. Claim 25 was previously objected to due to an issue with the preamble. Examiner has considered applicants amendments to claim 25 and thanks applicants for

making appropriate amendments. Examiner has withdrawn the previous objection as to claim 25.

Response to Arguments

4. Applicant's arguments filed October 9, 2009 concerning the rejections of claims 14-23 under 35 U.S.C. §101 have been fully considered but they are not persuasive. Applicant argues claim 14 has been amended in order to overcome examiners previous rejection that claim 14 was a hybrid claim. Examiner disagrees. Although claim 14 appears to resemble a computer readable medium, i.e. an item of manufacture, the last limitation of claim 14 explicitly recites "wherein the information storing means and the computer are each hardware device." This appears to recite hardware apparatus. Since claim 14 is a computer readable medium, the incorporation of hardware into the limitations renders claim 14 a hybrid claim. Furthermore, claim 14 fails to recite whether the recording medium is/is not non-transitory.

Examiner also respectfully notes applicants arguments on the bottom of page 16 of the remarks concerning the preamble reciting the electronic costing system establishing the price of a service using the calculation formula has been considered concerning §101 but they are irrelevant. The entire electronic costing system is merely the intended use of the formula.

As to applicant's arguments at the top of page 17 of the remarks, examiner respectfully notes the computer is not "being controlled to function as the electronic editor by performing the steps of defining..." In fact, the computer, under direction of the claimed recording medium does not perform any of the steps for defining the calculation

formula. Claim 14 clearly recites the formula is being defined by a person. The only steps the claimed recording medium causes the computer to perform is that of converting and storing (emphasis added).

5. Applicant's arguments filed October 9, 2009 concerning the rejection of claims 14 and 24 and those claims which depend therefrom under 35 U.S.C. §112-2nd Paragraph have been fully considered but they are not persuasive. In light of applicants significant amendments to independent claims 14 and 24 examiner has amended the §112-2nd rejections as indicated below. Please see below.

6. Applicant's arguments with respect to the rejections of claims 1, 24 and 25 under 35 U.S.C. §103(a) have been considered but are moot in view of the new ground(s) of rejection. Examiner respectfully requests applicant to consider those rejections below.

7. Applicant's arguments and the amendments with respect to the rejection of claim 26 under 35 U.S.C. §112-2nd Paragraph have been fully considered and are persuasive. The previous rejection of claim 6 under §112-2nd Paragraph has been withdrawn.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 14-23 and 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14-23 and 27 are rejected

under 35 U.S.C. 101 because the claims are considered hybrid claims. See MPEP §2173.05(p) II. See examiners arguments above.

Claims 14-23 and 27 are further rejected under 35 U.S.C. 101 since the specification does not set forth what constitutes a computer readable medium, and therefore, in view of the ordinary and customary meaning of computer readable media and in accordance with the broadest reasonable interpretation of the claim, said medium could be directed towards a transitory propagating signal per se and considered to be non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. 101*, Aug 24, 2009, p. 2. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. *O'Reilly*, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101. Please refer to MPEP 2111.01 and the USPTO's "Subject Matter Eligibility of Computer Readable Media" memorandum dated January 26, 2010, http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf.

Claim Rejections - 35 USC § 112-2nd Paragraph

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 14 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites "said tree structure being formed by nodes including a root node...ending..." Examiner cannot determine what functions (if any) the root node/father node/child node/ending are required to perform amongst each other. That is, examiner cannot determine whether the root/father/child nodes individually perform a calculation operation and/or whether each is explicitly required by the selecting and connecting steps since the selecting and connecting steps do not discuss which nodes are selected and further do not discuss which nodes are connected to one another.

Examiner notes the nodes themselves perform some calculating operation and the connected arcs define the order in which the some calculating operations are performed but examiner cannot determine the functionality of the endings. It does not appear the endings are required to include any calculating operation functionality. Claim 24 recites similar language in the "storage element" limitation of the claim.

As to claim 14, Examiner notes it is not necessary for the "converting" and "storing" limitations to be explicitly performed by "the computer" since it is clear via the preamble that the recording medium causes the computer to function as an editor by performing the claimed steps including converting and storing.

Furthermore as to claim 14, examiner cannot determine how a claimed recording medium which controls a computer to perform steps merely requires having a user

select and connect nodes. The claimed recording medium essentially causes the computer to do nothing, at least as concerning the steps of selecting and connecting. Examiner notes the steps of selecting and connecting are claimed as being performed from the view of a human user and not from the view of the computer as instructed by a recording medium. That is, claim 14 does not recite the computer as directed by the recording medium receives various selecting and connecting inputs but rather recites a user selecting and connecting. It makes no logical sense for a computer medium to cause a computer to have a human user select and connect nodes.

Lastly as to claim 14, the final limitation appears to explicitly require hardware elements. Since applicant is claiming a recording medium, examiner cannot determine how a recording medium includes hardware.

As to claim 24, examiner notes the "electronic calculating unit" limitation requires "executing operations associated with the nodes and the ends of the tree structure." There is a lack of antecedent basis for "the nodes." Examiner cannot determine which nodes are required to be executed. Further the "electronic calculating unit" is claimed to execute operations associated with the endings, however it appears only the nodes are associated with operations.

12. Claims 15-23 and 27 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claim(s) are narrative in form and replete with indefinite and functional or operational language.

For example, as to claim 15, there is a lack of antecedent basis for "the interface." There is also a lack of antecedent basis for "during the step of creating the

tree structure.” The prior steps include selecting and connecting but do not require “creating.”

As to claims 16-23, the claims recite the user performing the steps of selecting and connecting. Examiner cannot determine how the claimed recording medium causes a computer to have a user select and connect nodes (emphasis added).

As to claim 27, the claim recites “wherein the formula for calculating the price includes conditional calculating rules having a form...” The entirety of claim 27 does not make logical sense as depending from claim 14. That is, claim 14 recites the formula includes nodes which are associated with a calculating operation and arcs which connect the nodes and define the order of the calculating operations. Examiner cannot determine whether the if/then limitation of claim 27 is intended to replace the node calculating operations or whether the if/then represents the calculation operation itself.

Examiners Note: Examiner has attempted to point out language which renders the claims at issue with §112-2nd Paragraph. Examiner is available for an interview if such interview would be found advantageous.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 14-20 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (US 5,414,836) in view of Shaver et al. (US 2003/0158784).

16. As per **claims 14, 24, and 25**, Baer teaches a method, system, and recording medium storing a program of instructions executable by a computer to control the computer to function as an electronic editor for a calculation formula (Abstract) for calculating the price of a service the electronic editor creating said calculation formula in a format directly readable by an electronic costing system, the electronic costing system establishing with the aid of said calculation formula the price of a service using information on the service consumed contained in consumption variables:

- a. via an interface of the computer, a user selecting nodes from a node library of pre-stored nodes stored in the computer (Abstract; Column 3, lines 3-20; Column 4, lines 32-47), and;
- b. via the interface of the computer, the user connecting the nodes to one another by arcs, the arcs defining by an ordered relationship, an order in which said calculating operations are carried out (Abstract; Column 3, lines 3-20).

Baer does not explicitly teach but Shaver does teach, each node being associated with a calculating operation executable by the electronic costing system to establish the price of the service (Abstract; Paragraph 0019; Paragraph 0041; Paragraph 0048); wherein the nodes connected to each other by arcs creating a tree structure defining said formula (Abstract; Paragraph 0041; Paragraph 0047; Paragraph 0050), said tree structure being formed by nodes including a root node, father node, and child nodes, and endings, each ending extending from a respective one of the child nodes (Paragraph 0041; Paragraphs 0047-0048; Paragraph 0049; Paragraphs 0015-0016); automatically converting the created tree structure into a format directly readable by the electronic costing system (Paragraph 0031), and; storing the converted tree structure in an information storing means (Paragraph 0028; Paragraph 0057). Shaver also teaches a receiver storing consumption variables containing information on consumption of the service (Paragraphs 0056-0057).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include, each node being associated with a calculating operation executable by the electronic costing system to establish the price of the service; wherein the nodes connected to each other by arcs creating a tree structure defining said formula, said tree structure being formed by nodes including a root node, father node, and child nodes, and endings, each ending extending from a respective one of the child nodes; automatically converting the created tree structure into a format directly readable by the electronic costing system, and; storing the converted tree structure in an information storing means (and a receiver storing consumption variables containing

information on consumption of the service) as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable in order to create customizable pricing formulas easily.

17. As per **claim 15**, Baer further teaches, displaying the tree structure via the interface during said step of creating the tree structure (Abstract; Column 3, lines 1-20; Column 4, lines 32-47).

18. As per **claim 16**, Baer further teaches, via the interface of the computer, the user selecting, from the node library of pre stored nodes, a first level node solely associated with an operation for activating child nodes of said first level node in response to receiving a new value for one of the consumption variables processed by a calculation operation associated with one of the child nodes (Column 5, lines 6-11; Column 9, lines 14-29; Column 5, lines 30-42), and; via the interface of the computer, the user connecting the selected first level node to the child node of said first level node by arcs defining by an ordered relationship an order in which said calculating operations are carried out (Column 3, lines 1-27).

19. As per **claim 17**, Baer does not explicitly teach but Shaver does teach, selecting from the node library of pre stored nodes, a first level node solely associated with an operation of activating child nodes of the first level node and the calculation operation associated therewith, at predetermined time intervals (Paragraphs 0028-0029;

Paragraph 0020; Abstract), and; connecting the selected first level node to the child nodes of said first level node by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include, selecting from the node library of pre stored nodes, a first level node solely associated with an operation of activating child nodes of the first level node and the calculation operation associated therewith, at predetermined time intervals, and; connecting the selected first level node to the child nodes of said first level node by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

20. As per **claim 18**, Baer does not explicitly teach but Shaver does teach, selecting from the node library of pre stored nodes, a processing node solely associated with a calculating operation for calculating a new value from the values of the consumption variables and pre existing calculated variables and for allocating the calculated new value to a consumption variable (Paragraph 0029; Paragraph 0049; Paragraph 0052), and; connecting the selected processing node to at least one node of said tree structure by arcs defining by an ordered relationship, an order in which said calculating operation

is carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include, selecting from the node library of pre stored nodes, a processing node solely associated with a calculating operation for calculating a new value from the values of the consumption variables and pre existing calculated variables and for allocating the calculated new value to a consumption variable, and; connecting the selected processing node to at least one node of said tree structure by arcs defining by an ordered relationship, an order in which said calculating operation is carried out by the electronic costing system as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

21. As per **claim 19**, Baer does not explicitly teach but Shaver does teaches, selecting a decision node solely associated with a conditional activation operation of all corresponding child nodes and the calculating operation associated therewith using the value of a consumption variable (Paragraph 0052), and; connecting the selected decision node to the child nodes of said decision node by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting a decision node solely associated with a conditional activation operation of all corresponding child nodes and the calculating operation associated therewith using the value of a consumption variable, and; connecting the selected decision node to the child nodes of said decision node by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

22. As per **claim 20**, Baer does not explicitly teach but Shaver does teach, selecting from the node library of pre-stored nodes, a split node solely associated with an operation for extracting from the value of a consumption variable a range of values (Paragraph 0069; Paragraph 0072; Paragraph 0049), and; connecting the selected split node to the child nodes of said split nodes by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting from the node library of pre-stored nodes, a split node solely associated with an operation for extracting from the value of a consumption variable a range of values, and; connecting the selected split node to the child nodes of

said split nodes by arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

23. As per **claim 22**, Baer does not explicitly teach but Shaver does teach, selecting from the node library of pre stored nodes an ending solely associated with a calculation operation for calculating a price and with an operation for stopping the costing system from passing through the tree structure (Paragraphs 0057-0058; Paragraph 0047; Paragraphs 0028-0029), and; connecting the selected ending to a node of the tree structure by an arc defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting from the node library of pre stored nodes an ending solely associated with a calculation operation for calculating a price and with an operation for stopping the costing system from passing through the tree structure, and; connecting the selected ending to a node of the tree structure by an arc defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely

would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

24. As per **claims 23 and 26**, Baer does not explicitly teach but Shaver does teach, selecting from the node library of pre stored nodes a node associated with a predefined parameterisable calculating operation (Paragraph 0029; Paragraph 0049; Paragraph 0052); connecting the selected nodes to a father node by an arc defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050), and; parametering the parameterisable operations associated with the selected node (Paragraph 0029; Paragraph 0049; Paragraph 0052).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting from the node library of pre stored nodes a node associated with a predefined parameterisable calculating operation; connecting the selected nodes to a father node by an arc defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system, and; parametering the parameterisable operations associated with the selected node as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

25. As per **claim 27**, Baer does not explicitly teach but Shaver does teach, wherein the formula for calculating the price includes conditional calculating rules having a form

of if condition 1 exists then action 1 takes place where condition 1 is a logical function of which the result is true or false and action 1 is a mathematical function of the calculation of the price (Paragraph 0049).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include, wherein the formula for calculating the price includes conditional calculating rules having a form of if condition 1 exists then action 1 takes place where condition 1 is a logical function of which the result is true or false and action 1 is a mathematical function of the calculation of the price as taught by Shaver in the method of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

26. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (US 5,414,836) in view of Shaver et al. (US 2003/0158784) as applied to claim 14 above, and further in view of Bera (US 6,636,880).

27. As per **claim 21**, Baer further teaches, connecting the selected node to a node of the tree structure by an arc defining by an ordered relationship an order in which said calculating operation is carried out (Abstract; Column 3, lines 3-20). Baer in view of Shaver does not explicitly teach but Bera does teach, selecting a node solely associated with an calculating operation for unit conversion of a calculated value (Columns 1-2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include selecting a node solely associated with an calculating operation for unit conversion of a calculated value as taught by Bera in the method of Baer in view of Shaver, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable in order to ensure the calculation units do not cause errors due to conflicting units.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN EPSTEIN whose telephone number is (571)270-5389. The examiner can normally be reached on Monday-Thursday 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. E./
Examiner, Art Unit 3628
May 10, 2010

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628